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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2013-666

12 **DANIELLE SUZANNE KAESER**
13 **16761 Viewpoint Lane #184**
14 **Huntington Beach, CA 92647**

A C C U S A T I O N

15 **Registered Nurse License No. 548905**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
21 Department of Consumer Affairs.

22 2. On or about October 14, 1998, the Board issued Registered Nurse License Number
23 548905 to Danielle Suzanne Kaeser (Respondent). The Registered Nurse License expired on
24 September 30, 2012, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2811, subdivision (b), provides:

“(b) Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.”

STATUTORY AUTHORITIES

7. Section 2761 of the Code states:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, . . .

“ . . .

“(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

“ ”

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1 8. Section 2762 of the Code states, in pertinent part:

2 "In addition to other acts constituting unprofessional conduct within the meaning of this
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
4 chapter to do any of the following:

5 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
6 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
7 administer to another, any controlled substance as defined in Division 10 (commencing with
8 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
9 defined in Section 4022.

10 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
11 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
12 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
13 himself or herself, any other person, or the public or to the extent that such use impairs his or her
14 ability to conduct with safety to the public the practice authorized by his or her license.

15 ". . . ."

16 9. Section 2770.11 of the Code states

17 "(a) Each registered nurse who requests participation in a diversion program shall agree to
18 cooperate with the rehabilitation program designed by the committee and approved by the
19 program manager. Any failure to comply with the provisions of a rehabilitation program may
20 result in termination of the registered nurse's participation in a program. The name and license
21 number of a registered nurse who is terminated for any reason, other than successful completion,
22 shall be reported to the board's enforcement program.

23 "(b) If the program manager determines that a registered nurse, who is denied admission
24 into the program or terminated from the program, presents a threat to the public or his or her own
25 health and safety, the program manager shall report the name and license number, along with a
26 copy of all diversion records for that registered nurse, to the board's enforcement program. The
27 board may use any of the records it receives under this subdivision in any disciplinary
28 proceeding."

1 10. Section 2770.12 of the Code states

2 “(a) After the committee and the program manager in their discretion have determined that
3 a registered nurse has successfully completed the diversion program, all records pertaining to the
4 registered nurse's participation in the diversion program shall be purged.

5 “(b) All board and committee records and records of a proceeding pertaining to the
6 participation of a registered nurse in the diversion program shall be kept confidential and are not
7 subject to discovery or subpoena, except as specified in subdivision (b) of Section 2770.11 and
8 subdivision (c).

9 “(c) A registered nurse shall be deemed to have waived any rights granted by any laws and
10 regulations relating to confidentiality of the diversion program, if he or she does any of the
11 following:

12 “(1) Presents information relating to any aspect of the diversion program during any stage
13 of the disciplinary process subsequent to the filing of an accusation, statement of issues, or
14 petition to compel an examination pursuant to Article 12.5 (commencing with Section 820) of
15 Chapter 1. The waiver shall be limited to information necessary to verify or refute any
16 information disclosed by the registered nurse.

17 “(2) Files a lawsuit against the board relating to any aspect of the diversion program.

18 “(3) Claims in defense to a disciplinary action, based on a complaint that led to the
19 registered nurse's participation in the diversion program, that he or she was prejudiced by the
20 length of time that passed between the alleged violation and the filing of the accusation. The
21 waiver shall be limited to information necessary to document the length of time the registered
22 nurse participated in the diversion program.”

23 11. Code section 4060 states:

24 “No person shall possess any controlled substance, except that furnished to a person upon
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
27 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
28 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a

1 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph
2 (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the
3 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
4 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
5 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
6 with the name and address of the supplier or producer. Nothing in this section authorizes a
7 certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to
8 order his or her own stock of dangerous drugs and devices.”

9 12. Health and Safety Code section 11170 states that no person shall prescribe,
10 administer, or furnish a controlled substance for herself.

11 13. Health and Safety Code section 11173, provides in relevant part:

12 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
13 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
14 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

15 “(b) No person shall make a false statement in any prescription, order, report, or record,
16 required by this division.”

17 COST RECOVERY

18 14. Section 125.3 of the Code provides, in pertinent part, that the Board may
19 request the administrative law judge to direct a licentiate found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case. Subdivision (i) authorizes the Board to include the recovery of the
22 costs of investigation and enforcement of a case in any stipulated settlement.

23 DRUGS

24 15. **Norco**, a brand name for hydrocodone with acetaminophen, is a dangerous drug
25 pursuant to section 4022, and a Schedule II or Schedule III controlled substance based on the
26 quantity of dihydrocodeinone present as designated by Health and Safety Code section
27 11056(e)(3)-(4)

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FACTUAL ALLEGATIONS

16. On or about September 9, 2011, Respondent enrolled into the Board's Diversion Program. Respondent was participating in Washington's Diversion Program when she sought entrance into the California Board's Diversion Program. While in the Diversion Program, Respondent missed twelve calls to the lab, and eight tests.

17. Beginning in or about March 2012, Respondent became employed as a registered nurse at the University of California Medical Center, Cancer Center, located in Irvine, California (UCI), without the knowledge or consent of the Board's Diversion Program staff.

18. On or about August 3, 2012, a UCI Police Department deputy was dispatched to the UCI Cancer Center to respond to a call by the Director of Nursing there. The UCI Cancer Center Director of Nursing reported to the deputy that on August 2, 2012 at about 10:25 a.m., someone faxed a forged prescription for 120 tablets of Norco to a CVS Pharmacy located in Fountain Valley using the name of one of the UCI Cancer Center physicians. The forged prescription was picked up at about 2:00 p.m. that same day at the CVS Pharmacy by a female using the name "Danielle." A second deputy reviewed surveillance videotape from the CVS Pharmacy with UCI Cancer Center staff, who identified Respondent as the person picking up the forged prescription. A deputy interviewed Respondent who admitted that she was addicted to Norco, and had been for the past two years. Respondent told the deputy that she takes three Norco tablets every four hours, and will experience withdrawal symptoms if she does not take the pills. Respondent admitted that she took the prescription script from the nurses' station drawer, and wrote the fraudulent prescription. She admitted that she forged the physician's signature, and faxed the prescription to the CVS. Respondent admitted that on August 2, 2012, at about 1:00 p.m., she went to the CVS Pharmacy to pick up the forged prescription. Respondent told the deputy that the pills she obtained were in her purse, and she gave the deputy permission to search her purse. The deputy located 80 Norco tablets in Respondent's purse. The deputy also found a prescription script in Respondent's purse in her name for Norco in the name of another physician at UCI. Respondent admitted that she forged that prescription in June 2012, but was afraid to use it. Respondent admitted that she had been forging prescriptions to herself about twice a month by

1 taking the prescription scripts from the UCI nurses' station, forging the prescription using the
2 names of actual patients, faxing the prescription to the CVS Pharmacy, and then filling the
3 prescription at the CVS Pharmacy in Huntington Beach.

4 19. On August 10, 2012, Respondent self-reported a lapse to the Board's Diversion staff.
5 Respondent admitted that she was working in an unauthorized position with narcotic access. She
6 admitted that she had been forging prescriptions from her workplace, and stated that she was
7 arrested at work. Respondent admitted that she had been using Norco "on and off" for about four
8 months, five pills at a time, up to twenty pills a day. Respondent was mandated into treatment.

9 20. On August 20, 2012, Respondent completed an outpatient detoxification program.
10 Respondent reported to the Board's Diversion staff that she was planning to go to a 90 day
11 inpatient rehabilitation program on September 10, 2012, following her outpatient detoxification
12 program. Respondent then reported to the Board's Diversion staff that she was scheduled to be
13 admitted into the inpatient program on September 15, 2012.

14 21. On September 21, 2012, Respondent left a voicemail message for the Board's
15 Diversion staff about telephone call she had missed to the lab. Respondent's speech was slurred
16 in the message, and the message did not make sense. During a telephone call on September 21,
17 2012, Respondent reported to the Board's Diversion personnel that she could not follow the
18 mandate of inpatient treatment.

19 22. On October 8, 2012, Respondent was terminated from the Board's Diversion Program
20 as a safety risk.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Possession of Dangerous Drugs)**

23 23. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
24 and section 2762, subdivision (a), in that she engaged in unprofessional conduct in forging a
25 prescription for Norco, a dangerous drug, which Respondent filled, and then self-administered in
26 violation of Health and Safety Code sections 11170, and 11173, subdivisions (a) and (b), and
27 Code section 4060, as set forth in paragraphs 17, 18, and 19 above, which are incorporated here
28 by this reference.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Use of Dangerous Drugs)**

3 24. Respondent's registered nurse license is subject to disciplinary action under Code
4 section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code
5 section 2762, subdivision (b), in that beginning in or about March 2012, Respondent used Norco,
6 a controlled substance, in a manner dangerous or injurious to herself and others as set forth in
7 paragraphs 16 through 22 above, which are incorporated here by this reference.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 548905 issued to Danielle
12 Suzanne Kaeser;

13 2. Ordering Danielle Suzanne Kaeser to pay the Board of Registered Nursing the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3; and

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: February 21, 2013

18 for Stacie Ben
19 LOUISE R. BAILEY, M.Ed., RN
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

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